

**BEFORE**  
**THE PUBLIC SERVICE COMMISSION OF**  
**SOUTH CAROLINA**

**DOCKET NO. 2019-224-E**  
**DOCKET NO. 2019-225-E**

In the Matter of:	)	
	)	
South Carolina Energy Freedom Act	)	<b>DUKE ENERGY CAROLINAS,</b>
(House Bill 3659) Proceeding Related to	)	<b>LLC’S AND DUKE ENERGY</b>
S.C. Code Ann. Section 58-37-40 and	)	<b>PROGRESS, LLC’S PETITION</b>
Integrated Resource Plans for Duke	)	<b>FOR RECONSIDERATION OF</b>
Energy Carolinas, LLC and Duke Energy	)	<b>JULY 21, 2021 DIRECTIVE</b>
Progress, LLC	)	

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Pursuant to S.C. Code Ann. Sections 58-27-2150, 58-37-40(d), and S.C. Code Ann. Regs. Sections 103-854, 103-825 and 103-830, Duke Energy Carolinas, LLC (“DEC”) and Duke Energy Progress, LLC (“DEP”) (together, the “Companies”), by and through counsel, respectfully submit this Petition to the Public Service Commission of South Carolina (the “Commission”) requesting that the Commission reconsider the Directive issued on July 21, 2021 (the “Directive”), requiring the Companies to file an annual update to their Integrated Resource Plans now pending before the Commission (the “IRPs”) on or before December 6, 2021.<sup>1</sup> The Companies respectfully request that the Commission hold in abeyance the Companies’ obligation to file an update to their IRPs until no earlier than sixty (60) days following the issuance of an Order accepting their modified IRPs.

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<sup>1</sup> The Companies recognize that the Commission has not yet issued its final Order on the Companies’ Motion to Hold Integrated Resource Plan Update in Abeyance and Request for Limited Clarification of Order No. 2021-447. However, the Companies are filing the instant Petition for Reconsideration now in an effort to achieve resolution of this issue in a timely manner as certain deadlines are quickly approaching in this proceeding, and the Companies are actively preparing their modified IRPs and planning for future updates.

In support of this Petition, the Companies state the following:

1. Act 62 requires electric utilities to submit an annual “update to the electric utility’s base planning assumptions relative to [their] *most recently accepted integrated resource plan*.” S.C. Code Ann. § 58-37-40(D)(1) (emphasis added). Under Act 62, the requirement to annually update an IRP is triggered by the Commission’s final approval and “*acceptance*” of the utility’s proposed IRP. In other words, a utility must file an update to an IRP within one year after the Commission accepts or otherwise approves it. Under the current procedural schedule, the Companies’ IRPs are not likely to be approved and accepted by the Commission before the December 6, 2021, deadline in order to enable the Companies sufficient time to file an Act 62-compliant IRP update by the date set by the Commission’s recent Directive.

2. In particular, the Companies’ modified IRPs are due to be filed on August 27, 2021—60 days from the filing of Commission Order No. 2021-447 requiring modification to the Companies’ 2020 IRPs. *Id.* § 58-37-40(c)(3). Once filed, the South Carolina Office of Regulatory Staff (“ORS”) has 60 days to review the modified IRPs and make a recommendation to the Commission “assessing the sufficiency of the revised filing,” and other parties may submit comments pursuant to the same timeframe. *Id.* In this proceeding, ORS’s report and any intervenor comments on the modified IRPs are then due to the Commission on October 26, 2021. Then, the Commission has 60 days to decide the matter. Under Section 58-37-40(c)(3), “no later than sixty days after the [ORS] report is filed with the [C]ommission, the [C]ommission at its discretion may determine whether to accept the revised integrated resource plan or to mandate further remedies that the [C]ommission deems appropriate.” (emphasis added). Again, the “accepted plan” to be

updated is the IRP which is accepted in these dockets. Put another way, a final IRP must be accepted before it is updated. Under Act 62, the statutory timeframe for the Commission's final Order on the IRP would be due December 25, 2021. *Id.* The most logical reading of these statutory provisions would require an annual update to be filed within 12 months of that date—as an update to an accepted IRP must occur within the year following the accepted, final IRP under the plan meaning of Act 62.

3. Because Act 62 sets out “acceptance” as a prerequisite to the filing of an annual update, it would be inconsistent with the plain language of the Statute for the Companies to be required to file an annual update before receiving Commission approval and acceptance of the IRPs as “represent[ing] the most reasonable and prudent means of meeting the electrical utility’s energy and capacity needs[.]” *Id.* § 58-37-40(Cc)(1).

4. Even if the Commission were to issue an order approving the modified IRPs almost immediately after receiving ORS’s recommendation and intervenor comments, the Companies still would be left with just over a month to complete the time-intensive task of preparing updates to their base planning assumptions<sup>2</sup> and addressing any additional modifications in the event ordered by the Commission—approximately half the time in which the Commission allowed Dominion Energy South Carolina (“DESC”) to complete the same task.<sup>3</sup> Moreover, the requested relief—a filing deadline 60 days from the date of an order accepting the modified IRPs—grants a minimally reasonable amount of time to

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<sup>2</sup> Section 58-37-40(D)(1) requires the Companies to, at minimum, update their “energy and demand forecast, commodity fuel price inputs, renewable energy forecast, energy efficiency and demand-side management forecasts, changes to projected retirement dates of existing units, along with other inputs the commission deems to be for the public interest” in an annual update to an accepted IRP.

<sup>3</sup> See *South Carolina Energy Freedom Act (House Bill 3659) Proceeding Related to S.C. Code Ann. Section 58-37-40 and Integrated resource Plans for Dominion Energy South Carolina, Incorporated*, Docket No. 2019-226-E, Order No. 2021-429 (June 18, 2021) (holding that “DESC shall file its 2021 IRP Update within sixty (60) days from the date of the issuance of this Order”).

prepare a thorough annual update to an accepted IRP. This timeframe is also consistent with the Commission's recent determination regarding the timing of DESC's initial annual update of its now-accepted IRP under Act 62 and would be consistent with the language of Act 62 requiring an IRP Update in the year following the Commission's acceptance of the Companies' IRPs.

5. Accordingly, given that the IRPs need to be final and accepted before they can practically or legally be updated within the meaning of Act 62, the Companies believe their request to delay the update to the IRPs is reasonable, comports with Act 62, and is consistent with other action taken by the Commission.

6. Notwithstanding the instant request for abeyance, the Companies also reiterate their intent to update their respective comprehensive IRPs on a schedule that is even more accelerated than Act 62 requires.<sup>4</sup> As DEC/DEP Witness Glen Snider explained in his pre-filed rebuttal testimony and at the live hearing, the Companies are planning to file their next comprehensive IRPs a year earlier than Act 62 requires in September of 2022, and that filing will incorporate valuable feedback from the Companies' planned IRP stakeholder process as well as address the Commission's findings in Order No. 2021-447.

WHEREFORE, for all of the foregoing reasons, DEC and DEP respectfully request that the Commission grant their Petition and enter an order holding in abeyance the Companies' obligation to file IRP updates until no earlier than 60 days after the Commission issues an order approving and accepting the Companies' modified IRPs.

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<sup>4</sup> See S.C. Code. Ann. § 58-37-40 ("An integrated resource plan shall be prepared and submitted at least every three years.").

Respectfully submitted, this the 30<sup>th</sup> day of July 2021.

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